

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
GAINESVILLE DIVISION

JODI STINCHCOMB,

Plaintiff,

v.

JEFFREY STOLTZ and MICELI
DRAPERY COMPANY, INC.,

Defendants.

CIVIL ACTION FILE

NO. _____

NOTICE OF REMOVAL

TO: Judges of the United States District Court
Northern District of Georgia, Gainesville Division

Pursuant to 28 U.S.C. § 1441 *et seq.*, Defendants Jeffery Stoltz and Miceli Drapery Company, Inc., and (hereinafter “these Defendants”) hereby remove the civil action captioned *JODI STINCHCOMB v. JEFFREY STOLTZ and MICELI DRAPERY COMPANY, INC.*, State Court of Habersham County, Civil Action File No. 21ST0097 from the State Court of Habersham County, Georgia, to the United States District Court for the Northern District of Georgia, Gainesville Division. Removal is based upon the following:

Removal Based on Diversity Jurisdiction

1. This Court has original jurisdiction of this matter pursuant to 28 U.S.C. § 1332 and this matter may be removed to this Court under 28 U.S.C. §§ 1441 and 1446.

Description of the Action

2. On August 10, 2021, Plaintiff filed a Complaint against Defendants alleging negligence related to a motor vehicle accident that occurred on or about February 4, 2021 in Habersham County, Georgia. *See* Plaintiff's Complaint ¶ 6, attached as Exhibit "A".

Consent for Removal

3. The procedure for removing a case to Federal Court is codified in 28 U.S.C. § 1446 and requires that "all defendants who have been properly joined and served" consent to the removal. 28 U.S.C. § 1446(b)(2)(A) (emphasis added); *Cook v. Randolph County, Ga.*, 573 F.3d 1143, 1150 (11th Cir. 2009); *Tri-Cities Newspaper, Inc. v. Tri-Cities Printing Pressmen and Assistants' Local 349*, 427 F.2d 325, 326-27 (5th Cir. 1970).

4. All named Defendants, through undersigned counsel, consent to the removal of this Action.

The Amount in Controversy Requirement

5. In diversity cases, 28 U.S.C. § 1332(a) requires that the matter in controversy exceed the sum or value of \$75,000.

6. In Plaintiff's Complaint, they seek to recover past and future medical expenses, damages for past and future mental and physical pain and suffering, punitive damages, physical and emotional suffering. Plaintiff's Complaint ¶¶ 23 – 28 and correspondence from Plaintiff's counsel making a "policy limits demand" and indicating that the case value as "being well into the seven figures," attached as Exhibit "H."

7. Thus, the amount in controversy has been established pursuant to 28 U.S.C. § 1446(c)(2) as shown by Plaintiff's Complaint.

The Diversity of Citizenship Requirement

8. For diversity jurisdiction under 28 U.S.C. § 1332(a)(1), the parties must be citizens of different states.

9. Plaintiff is a citizen and resident of the State of Georgia. Plaintiff's Complaint ¶ 1. Upon information and belief, Plaintiff is a citizen of Georgia and are entirely diverse from these Defendants.

10. Defendant Jeffrey Stoltz is a resident and citizen of the State of North Carolina. Plaintiff's Complaint ¶ 2; Answer of Defendants ¶ 2. Defendant Jeffery Stoltz is not a citizen of the State of Georgia and is entirely diverse from Plaintiff.

11. Defendant Miceli Drapery Company, Inc. is a foreign corporation with its state of incorporation being the State of Illinois and principal place of business being the State of Illinois and is, therefore, a citizen of Illinois. *See* Illinois Secretary of State Business Information on Miceli Drapery Company, Inc. attached as Exhibit "T". Defendant Miceli Drapery Company, Inc. is not a citizen of the State of Georgia and is entirely diverse from Plaintiff.

Compliance with Deadline for Removal

12. Pursuant to 28 U.S.C. §1446(b)(2)(B), each defendant shall have 30 days after receipt by or service on that defendant of the initial pleading or summons to file the notice of removal.

13. Defendants accepted service through counsel on August 12, 2021. *See* Acknowledgements of Service, attached as Exhibits "E" and "F".

14. These Defendants have initiated removal within 30 days of service on these Defendants. Based on 28 U.S.C. § 1446(b)(2)(B)-(C) this Notice of Removal is timely filed.

The State Court Proceeding

15. The state court proceeding is identified as follows: *JODI STINCHCOMB v. JEFFREY STOLTZ and MICELI DRAPERY COMPANY, INC.*, State Court of Habersham County, Civil Action File No. 21ST0097. A Notice of this Removal will be filed with the State Court of Habersham County upon filing of this Notice of Removal pursuant to 28 U.S.C. § 1446(d).

All State-Court Documents

16. Pursuant to 28 U.S.C. § 1446(a), the following state-court filings are attached hereto: Plaintiff's Complaint (Exhibit "A"); General Civil Information Form (Exhibit "B"); Summons to Miceli Drapery Company, Inc. (Exhibit "C"); Summons to Jeffery Stoltz. (Exhibit "D"); Acknowledgement of Service for Miceli Drapery Company, Inc. (Exhibit "E"); Acknowledgement of Service for Jeffery Stoltz. (Exhibit "F"); and Answer of Defendants. (Exhibit "G").

WHEREFORE, these Defendants exercise their rights under the provisions of 28 U.S.C. § 1441, *et seq.* to remove this Action from the State Court of Habersham County, Georgia, to the United States District Court, Northern District of Georgia, Gainesville Division.

Respectfully submitted this 13th day of September, 2021.

NALL & MILLER, LLP

By: /s/ Michael Hostetter
MICHAEL D. HOSTETTER
Georgia Bar No. 368420
JARVIS B. LÄKEMÄKER
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CERTIFICATE OF SERVICE

I hereby certify that I have this day filed and served the within and foregoing **NOTICE OF REMOVAL (USDC, NORTHERN DISTRICT, ATLANTA DIVISION)** via the Court's electronic filing service ECF, which shall forward a copy to counsel of record listed below.

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Attorneys for Plaintiff

This the 13th day of September, 2021.

NALL & MILLER, LLP

By: /s/ Michael Hostetter
MICHAEL D. HOSTETTER
Georgia Bar No. 368420

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